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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,837	12/12/2003	Vincent T. Kozyrski	6611-62-1	1955

50811 7590 08/05/2005

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EXAMINER

WEEKS, GLORIA R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,837	Applicant(s) KOZYRSKI, VINCENT T.	
	Examiner Gloria R. Weeks	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
 4a) Of the above claim(s) 1-25 and 32-36 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 26-31 and 37-39 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05/05/05</u> | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 21, 2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 26-31 and 37-39 rejected under 35 U.S.C. 102(b) as being anticipated by Okamura et al. (USPN 4,339,983).

In reference to claims 26-31, Okamura et al. discloses a stack (CD; figure 19) of hangers comprising: a plurality of hangers aligned parallel, along a single line, wherein an opening exists between each hanger; each hanger having a shoulder (13a, 13b) spaced from a web (9), the web (9) extending between a pair of legs (10a, 10b), and a barbed member (15a, 15b) extending out from each leg (10a, 10b); one or more shearable tabs (23) extending between, and attaching, adjacent ones of the plurality of hangers.

Regarding claims 37-39, Okamura et al. teaches hangers comprising: a web (9) and a pair of legs (10a, 10b) having a shoulder and extending in a direction perpendicular to the web (9); a

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barbed member (14a, 14b) extending out from each leg (10a, 10b); and one or more shearable tabs (23) extending between and attaching adjacent fastening elements.

Claim Rejections - 35 USC § 103

4. Claims 26-31 and 37-39 rejected under 35 U.S.C. 103(a) as being obvious over Samson et al. (USPN 4,728,237) in view of Okamura et al. (USPN 4,339,983).

With respect to claims 26-31, Samson et al. discloses a hanger (40), used to install framing material, the hanger comprising: a web (41) extending between a pair of legs (42, 43) having a shoulder, in which the legs (42, 43) extend outwardly from the web (41) in a direction perpendicular to the web (41); and a barbed member extending out from each leg (42, 43). Although Samson et al. discloses a tab (41b) extending from the web (41) of the hanger (40), Samson et al. does not disclose one or more shearable tabs extending between adjacent hangers. Okamura et al. teaches fastening elements comprising: a web (9) and a pair of legs (10a, 10b) extending in a direction perpendicular to the web (9), and a barbed member (14a, 14b) extending out from each leg (10a, 10b); and one or more shearable tabs (23) extending between and attaching adjacent fastening elements. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the hanger of Samson et al. to include the shearable tabs of Okamura et al., since Okamura et al. states in column 6 lines 5-21 that such a modification is known for the purpose of securing a series of elements to one another, thereby allowing the elements to be used in a continuous supply operation.

In reference to claims 37-39, Samson et al. discloses a hanger (40), used to install framing material, the hanger comprising: a web (41) extending between a pair of legs (42, 43) having a shoulder, in which the legs (42, 43) extend outwardly from the web (41) in a direction

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perpendicular to the web (41); and a barbed member extending out from each leg (42, 43).

Although Samson et al. discloses a tab (41b) extending from the web (41) of the hanger (40), Samson et al. does not disclose one or more shearable tabs extending between adjacent hangers. Okamura et al. teaches fastening elements comprising: a web (9) and a pair of legs (10a, 10b) extending in a direction perpendicular to the web (9), and a barbed member (14a, 14b) extending out from each leg (10a, 10b); and one or more shearable tabs (23) extending between and attaching adjacent fastening elements. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the hanger of Samson et al. to include the shearable tabs of Okamura et al., since Okamura et al. states in column 6 lines 5-21 that such a modification is known for the purpose of securing a series of elements to one another, thereby allowing the elements to be used in a continuous supply operation.

Response to Arguments

5. Applicant's arguments filed July 21, 2005 have been fully considered but they are not persuasive. In response to applicant's argument that the hangers of Okamura et al. are not disclosed for use as frame hangers, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

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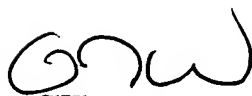
Conclusion

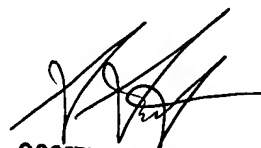
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721


grw
August 2, 2005


SCOTT A. SMITH
PRIMARY EXAMINER